REMARKS

This amendment is submitted in response to the Examiner's Final Action dated February 23, 2005 and pursuant to a telephone conference with Examiner on April 12, 2005. During that conference, Examiner indicated to Applicant's representative that Examiner would consider allowing Applicant's claims if the subject matter of dependent Claim 5 (and similar claims) was incorporated into the associated independent claim.

Accordingly, Applicant has amended the claims by incorporating the subject matter of dependent claim 5 and similar claims 12 and 19 (now canceled) into their respective independent claims. Associated features of intervening claims have also been added to their respective independent claims. The features of the amended independent claims are not taught or suggested by the references and thus overcome the claim rejections. No new matter has been added, and the amendments place the claims in better condition for allowance. Applicant respectfully requests entry of the amendments to the claims. Applicant further requests Examiner provide the positive consideration that Examiner indicated would be forthcoming if Applicant made the present amendments. Additional discussion/arguments provided below reference the claims in their amended form.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

At paragraph 3 of the present Office Action, Claims 1-3, 7-10 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Griebenow, et al.* (U.S. Patent No. 5,850,520) in view of *Crawford, et al.* (U.S. Patent No. 5,918,055). At paragraph 11 of the present Office Action, Claims 5-6, 12-13 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Griebenow, et al.* (U.S. Patent No. 5,850,520) in view of *Crawford, et al.* (U.S. Patent No. 5,918,055) in view further of *Hoyle* (U.S. Patent No. 6,141,010).

Applicant hereby incorporates by reference all arguments proffered in Amendment A, Response B, Applicant's Appeal Brief and Amendment C, with regards to the deficiencies in *Griebenow* and *Hoyle*. Neither reference either individually or in combination suggests "a status manager that...allows said push engine to transmit a second issue to said subscriber **only after**

determining that said first issue has been **received and opened**" (emphases added), as provided by Appellant's independent claims.

Notably, Examiner agrees with Applicant's assessment of the limitations in *Griebenow* by stating (in paragraph 4 of the present Office Action) that *Griebenow* "does not explicitly teach allowing transmission ... only when ... first issue is opened." *Crawford*, which is being relied on to reject this feature provides a method for managing digital resources of a digital system, which includes reserving token values for certain digital resources and passing the token across a free-buffer queue and a valid-request queue (see Abstract and Summary). The cited section of *Crawford* (col. 8, lines 36-53) describes a token-based message passing command interface that prevents overflow in a free-buffer queue.

Crawford is not analogous to Applicant's invention or to either of the other two references, and one skilled in the art would not have been motivated to combine the teachings of *Crawford* with that of the other references. Further, *Crawford* clearly does not teach or suggest the above element of only transmitting a second issue when a first issue has been open.

As presently amended, each independent claim recites: "electronically transmitting a first issue... transmitting a hypertext transfer protocol (HTTP) cookie;" and "determining whether said first issue has been received and opened by ... receiving a status update... a cookie response from said subscriber indicating that client software has been utilized to open said first issue."

Hoyle, which is relied on to support the rejection of this feature of the claims, does not suggest specific use of an HTTP cookie with cookie response features to provide a status message about whether an issue of an electronic publication has been **opened** by an application executing on a client computer. While the cited section of *Hoyle* (col. 17, lines 27-45) mentions the term "cookie," *Hoyle* specifically refers to a cookie that is placed on the user's computer by the server and "accessed by the server 22 each time **computer usage information** is sent to the server so that the ID can be associated with the computer usage information," (emphasis added). Notably, *Hoyle* then specifically clarifies that "the user ID is associated with a **user login** that is required each time the client software application [downloaded by the user] is executed."

Nothing in this section of *Hoyle* describes or suggests a cookie response that tracks when an issue (e.g., a transmitted message that is stored in an inbox of an email application) is opened by a recipient and that is utilized to determine when to send a next issue to the recipient's inbox. Tracking computer usage information that entails tracking when a downloaded application is opened, as provided by *Hoyle*, is inherently distinct and not suggestive of alerting a server when an electronic publication/issue is opened (within an email or similar application) by the recipient.

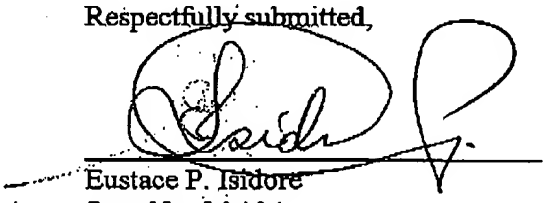
Given the above reasons, it is clear that neither combination of references suggests key features of Applicant's invention. One skilled in the art would not find Applicant's invention unpatentable over either of the above combinations of references. The above claims are therefore allowable.

CONCLUSION

Applicant has diligently responded to the Office Action and followed Examiner's suggestions by incorporating the features of dependent claims into their respective independent claims. Per Examiner's statements in the telephonic conference, the present amendments overcomes the §103 rejections and places the claims in better condition for allowance. Applicant, therefore, respectfully requests reconsideration of the rejection and issuance of a Notice of Allowance for all claims now pending.

Applicant further respectfully requests the Examiner contact the undersigned attorney of record at 512.343.6116 if such would further or expedite the prosecution of the present Application.

Respectfully submitted,



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